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Agency Director

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July 17, 2001

Mr. H. Todd Whay
Corporate Counsel
GTSI Corporation
3901 Stonecroft Boulevard
Chantilly, Va. 20151-1010

Re: Protest by GTSI Corp. of proposed awards under Invitation For Bid #2001-04

Dear Mr. Whay:

This letter is in response to your letter of July 2, 2001, in which you have challenged 27 of the 85 printers (excluding duplicates) proposed for award as a result of the above referenced Invitation for Bid (IFB).

We find your objections are correct as to 9 of the proposed printer awards. Therefore we are upholding your protest as to those proposed awards, and the notice of intent to make those awards will be cancelled. Although you have requested that the entire IFB be cancelled, no defect was asserted in regard to most of the proposed awards associated with this IFB, and accordingly, we will correct the identified defects by canceling the erroneous awards.

For your information, although categories C, H.1.a, and H.2.c contain some proposed awards which were not alleged or found to be erroneous, we are no longer planning to make any awards in those categories/sub-categories. This preserves flexibility in case we want to issue another statewide solicitation for printers, but no decision has been made at this time to do so. In the event such a solicitation is issued, we will of course contact your firm, as well as other firm's which have expressed an interest in being notified of such opportunities.

As to the remaining 21 awards which you have challenged, for the reasons stated below, we do not find those challenges to have merit, and the protest to those awards therefore is denied. After reviewing our analysis below, if you intend to file a legal action to further challenge any of them, we ask that you inform us promptly of your intention. We will delay action on those items until close of business on July 19. Even if you choose to further challenge some or all of those proposed awards, however, that is no reason to delay the numerous proposed awards which are not claimed to be contrary to law or the rules of the solicitation.

AN EQUAL OPPORTUNITY EMPLOYER

1. You have challenged the following proposed awards for dot matrix or ink jet printers on the ground that the printers do not meet the specified print speed when operating at the highest possible resolution of which the printer is capable:

<u>Printer Category</u>	<u>Proposed Awardee</u>	<u>Printer Brand/Model</u>
C.2.a	DISYS	Epson Stylus 777
C.2.a	DISYS	Canon S400
C.2.a	Lexmark	Z53, (Z22, Z32, Z43)
C.2.b	DISYS	Canon S600
C.2.b	Lexmark	J110
C.3.a	DISYS	Epson Stylus 880

As a general rule for the solicitation, we required that the printer must be capable of meeting the specified page output speed when operating within a range of quality that we considered adequate. However, in the case of some printers that print one line at a time rather than the whole page (dot matrix specifically), we recognized that page output rates are sometimes claimed based on reducing print quality to an unacceptable level. The Commonwealth considers output from ink-jet printers to meet the NLQ test of print quality. Inadvertently, the Commonwealth, in response to vendor questions, received after issuance but prior to the due date, specified that the speed for ink-jet printers was to be at the printer's "highest rated dpi".

As a factual matter, we do not consider the exhibits submitted with your protest to be sufficient to prove the capabilities of the printers in question, but by the same token, after looking at the official manufacturer documentation for these printers, we are unable to determine whether these printers do or do not attain the required page output speed at the highest dpi. Therefore, we are upholding the protest to the above awards and canceling our intent to make those awards.

2. You have challenged the following proposed awards for laser/page printers based on your contention that the printers do not meet the specified print speed when operating at the highest possible resolution of which the printer is capable, and in some cases, you challenge the very same printers on the basis that the printer allegedly exceeds the specified print speed:

<u>Printer Category</u>	<u>Proposed Awardee</u>	<u>Printer Brand/Model</u>
E.1.a	DISYS	Okidata 8Z
E.1.a	Minolta	Minolta 1100
E.1.a	Logicom	Xerox P8EX
E.1.b	Logicom	Xerox P1210
E.2.a	Brother	HL1650
E.2.a	Lexmark	T610N, M412N, M410N
E.2.b	Brother	HL2460
E.2.c	Lexmark	T616N, W810N, W810DN

Your protest on these awards depends on trying to suggest different page output speeds apply at different resolutions and that you cannot be sure whether quoted speeds necessarily apply to the highest resolution. We did not require page output speed to be measured at the highest quality. We required that printers must be capable of meeting the specified page output speed when operating within a range of quality that we considered adequate. This could be designated "Best Quality, or NLQ [near letter quality] or Highest rated dpi." Laser/Page printers, due to the technology employed, do not present the dot matrix problem of unacceptable text quality, and we are satisfied that quoted page output per minute of these machines is inherently at letter quality. Furthermore, our solicitations instructions specifically recognize (see #13 page S4) that printers which exceed the specifications are acceptable. Therefore, your assertion that some of the printers selected for award print too fast is also without merit.

3. You also protested certain printers on issues other than print speed.

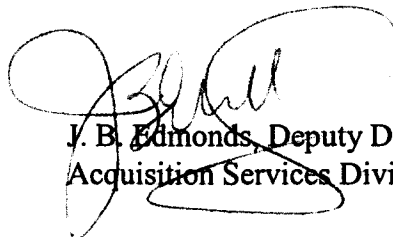
For the Okidata 8Z award, you assert that the printer is not a "Laser/Page -- Mono" printer because it uses a light emitting diode. The slash was not intended as you claim. It links types that together describe the desired category of printers. Laser printers are considered Page printers and the slash intends to convey the fact that either are included in this category. The use of a light emitting diode on a page printer is acceptable. The referenced printer is a page printer that produces monochrome output, and meets specification.

The analysis of additional points raised is included in the detail report attached. Some of your protests regarding these issues were upheld. These include the:

1. Xerox 940
2. Oce 6485
3. Xerox P1210

For the reason listed above and in the attachments, the awards for the printers in #1 and the three printers listed in #3 above will be cancelled.

The Commonwealth appreciates your interest in procurements conducted by this office.



J. B. Edmonds, Deputy Director
Acquisition Services Division

Cc: Scott D. Fairholm, DIT
Paul Dodson, DIT
John Tackley, DIT
Leslie R. Carter, DIT
John S. Westrick, Esq, Office of the Attorney General

RESPONSE TO GTSI PROTEST DATED JULY 2, 2001

Grounds of Protest *(DIT Response in ITALICS)*

A. The Government intends to award contracts for printers that do not comply with the minimum requirements of the IFB and are therefore non-responsive and not eligible for award.

The procurement at hand is for 31 separate subcategories of printers. Each subcategory contains a distinct set of requirements, as well as being subject to the general requirements set forth in Section 2.1 of the IFB. Printers that do not meet all of the distinct set of requirements in the particular subcategory in which they are being offered and that do not meet the general requirements applicable to that subcategory are non-responsive under the IFB and are not eligible for award.

Section 3.8 of the Commonwealth of Virginia's Vendor Manual defines a responsive bidder as a bidder that "has submitted a bid which conforms in all material respect to the Invitation for Bids. Examples of non-responsiveness include...failure to offer a product or service that Meets the requirement of the Invitation of Bids."

1. The Government intends to award contracts for printers that do not comply with the minimum page per minute requirement of the IFB and are therefore non-responsive and not eligible for award.

Twenty of the 31 subcategories of the IFB require printers to print a minimum number of pages per minute at their "Best Quality, or NLQ, or Highest rated dpi." The phrase "Best Quality, or NLQ, or Highest rated dpi" is understood throughout the IT industry as indicating the highest print quality available for the given type of printer (i.e. laser, dot matrix, inkjet).

Manufacturers often list the page per minute capabilities of their printers in terms of maximums (i.e. "up to 10 ppm" or "10 ppm"). It is understood throughout the IT industry, and is dictated by logic, that the maximum number of pages per minute of a printer is at its lowest available print quality and that printing at the highest print quality will produce fewer pages per minute.

In 40% (8 of the 20) subcategories that have a minimum page per minute requirement, the Government incorrectly intends to award contracts for printers that do not meet the minimum page per minute requirement in their respective subcategories.

RESPONSE: The solicitation states that "All print speeds indicated are for "Best Quality, or NLQ, or Highest rated dpi". The bold emphasis is on the "or". NLQ or Near Letter Quality does not automatically infer that that is the "Best Quality" or the "Highest rated dpi", especially in the category of Laser/Page or InkJet printers.

a. Under subcategory C.2.a the Government intends to award contracts for 6 printers that do not meet the minimum page per minute requirement of the subsection.

Subcategory C.2.a is for desktop color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 x 600 dpi, print pages in size not to exceed 8.5" x 14", print a minimum of 6 pages per minute in black and a minimum of 2 pages per minute in color.

In this subcategory, the Government intends to make three awards. The first is to DISYS for the Canon S400. The second award is to Lexmark International, Inc. ("Lexmark") for the Lexmark Z22, the Lexmark Z32, the Lexmark Z43 and the Lexmark Z53. The third award is to DISYS for the Epson 777. None of the intended awardees in this subcategory meet the required minimum pages per minute.

1. Based upon information and belief, the Canon S400 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 6 pages per minute in black and up to 4 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than the required pages per minute. See Exhibit 4.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

2. Based upon information and belief, the Lexmark Z53 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 16 pages per minute in black and up to 8 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just under 3.6 pages per minute. See Exhibit 5. Each of the four printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is nonresponsive, the entire bid by Lexmark for this subcategory is nonresponsive.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

3. Based upon information and belief, the Epson 777 does not meet the required 6 pages per minute in black and does not meet the 2 pages per minute in color. Although the manufacturer claims a print speed of up to 8 pages per minute in black and up to 6 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just over 1 page per minute. See Exhibit 6.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

b. Under subcategory C.2.b the Government intends to award contracts for 2 printers that do not meet the minimum page per minute requirement of the subsection.

Subcategory C.2.b is for desktop color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 2400 x 1200 dpi, print pages in size not to exceed 8.5" x 14", print a minimum of 11 pages per minute in black and a minimum of 8.5 pages per minute in color.

In this subcategory, the Government intends to make two awards. The first is to DISYS for the Canon S600. The second award is to Lexmark for the Lexmark Z22, the Lexmark J110. None of the intended awardees in this subcategory meet the required minimum pages per minute.

1 . Based upon information and belief, the Canon 600 does not meet the required 11 pages per minute in black and does not meet the 8.5 pages per minute in color. Although the manufacturer claims a print speed of 0 to 15 pages per minute in black and up to 10 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just 1.46 pages per minute. See Exhibit 7.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

2. Based upon information and belief, the Lexmark J110 does not meet the required 11 pages per minute in black and does not meet the 8.5 pages per minute in color. Although the manufacturer claims a print speed of up to 16 pages per minute in black and up to 14 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just 7.6 pages per minute. See Exhibit 8.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

C. Under subcategory C.3.a the Government intends to award a contract for 1 printer that does not meet the minimum page per minute requirement of the subsection.

Subcategory C.3.a is for workgroup color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages 8.5" x 14" in size, print a minimum of 5 pages per minute in black and a minimum of 1 page per minute in color.

In this subcategory, the Government intends to make two awards. The award to DISYS for the Epson Stylus 880 does not meet the required minimum pages per minute.

1 Based upon information and belief, the Epson Stylus Color 880 does not meet the required 5 pages per minute in black and does not meet the 1 page per minute in color. Although the manufacturer claims a print speed of up to 12 pages per minute in black and up to 9 pages per minute in color, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just .87 pages per minute. See Exhibit 9.

RESPONSE: The Commonwealth inadvertently stated on May 7, 2001, in the answers to question from vendors, that the ink-jet family of products must achieve the rated speed at "its highest dpi". We therefore concur with your finding.

d. Under subcategory E.1.a the Government intends to award contracts for 3 printers that does not meet the minimum/maximum page per minute requirements of the subsection.

Subcategory E.1.a is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 600 dpi, print pages in size from 3 " x 5 " up to 11" x 14" and print exactly 8 pages per minute in black.

In this subcategory, the Government intends to make three awards. The first is to DISYS for the Okidata 8Z. The second award is to Minolta-QMS, Inc. ("Minolta") for the Minolta 1100. The third award is to Logicom Systems, Inc. ("Logicom") for the Xerox P8ex. None of the intended awardees in this subcategory meet the required minimum/maximum pages per minute.

1 Based upon information and belief, the Okidata 8Z does not meet the required minimum/maximum 8 pages per minute speed. Although the manufacturer claims a print speed of 0 to 8 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB, the printer's speed is less than 4 pages per minute. See Exhibit 10.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

2. Based upon information and belief, the Minolta 1100 does not meet the required minimum/maximum 8 pages per minute speed. The manufacturer claims a print speed of up to 10 pages per minute. The 10 pages per minute claimed by the manufacturer exceed the maximum number of pages per minute of 8 allowed under the subsection.' See Exhibit 11.

RESPONSE: GTSI states in a footnote on page 9 of its "Protest" that:

"GTSI was unable to collect any information regarding this product beyond what was found on Minolta's Web site. The 10 ppm claimed are almost assuredly not at the 600 dpi required by the IFB. but at some lower dpi."

GTSI's claim is clearly unsubstantiated.

3. Based upon information and belief, the Xerox P8EX does not meet the required minimum/maximum 8 pages per minute speed. The manufacturer claims a print speed of up to 8 pages per minute. Although the manufacturer claims a print speed of up to 8 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 8 pages per minute. See Exhibit 12.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

e. Under subcategory E.1.b the Government intends to award a contractor 1 printer that does not meet the minimum/maximum page per minute requirements of the subsection.

Subcategory E.1.b is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3 " x 5" up to 11" x 14", print over 8 pages per minute and not over 20 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Logicom for the Xerox P1210 does not meet the required minimum pages per minute.

1. Based upon information and belief, the Xerox P1210 does not meet the required minimum, of over 8 pages per minute speed. Although the manufacturer claims a print speed of up to 12 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is 7.6 pages per minute. See Exhibit 13.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'. This printer was found not to be compliant but not for the print speed objected to in the above paragraph.

f. Under subcategory E.2.a the Government intends to award contracts for 4 printers that do not meet the minimum page per minute requirement of the subsection.

Subcategory E.2.a is for workgroup mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5" x 11" up to 11" x 14", print a minimum of 10 pages per minute and maximum of 20 pages per minute.

In this subcategory, the Government intends to make three awards. The first is to Brother for the Brother HL1650. The second award is to Lexmark for the Lexmark M410N, M412N and T610N. The third award is to Unisys for the UDS15N-N11. The bids offered by Brother and Lexmark in this subcategory do not meet the required minimum pages per minute.

1. Based upon information and belief, the Brother HL 1650 does not meet the required 10 pages per minute. Although the manufacturer claims a print speed of up to 16 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's

speed is just under 7.5 pages per minute. See Exhibit 14.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

2. Based upon information and belief, the Lexmark T610N does not meet the required 10 pages per minute. Although the manufacturer claims a print speed of up to 15 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is just under 4.7 pages per minute. See Exhibit 15. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

g. Under subcategory E.2.b the Government intends to award a contract for 1 printer that does not meet the minimum page per minute requirements of the subsection.

Subcategory E.2.b is for workgroup mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5" x 11" up to 11" x 14", print over 20 pages per minute and not over 30 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Brother for the Brother HL-2460 does not meet the required minimum pages per minute.

1 Based upon information and belief, the Brother HL-2460 does not meet the required minimum of over 20 pages per minute speed. Although the manufacturer claims a print speed of up to 25 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 20 pages per minute. See Exhibit 16.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

h. Under subcategory E.2.c the Government intends to award a contract for 3 printers that do not meet the minimum/maximum page per minute requirements of the subsection.

Subcategory E.2.c is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3" x 5" up to 11" x 17", print over 30 pages per minute and not over 50 pages per minute in black.

In this subcategory, the Government intends to make three awards, which includes an award to Lexmark for its bid of the Lexmark T616N, W810N and W810DN. The award to Lexmark does not meet the required minimum pages per minute.

1. Based upon information and belief, the Lexmark T616N does not meet the required 30 pages per minute. Although the manufacturer claims a print speed of up to 35 pages per minute, at its best quality mode (as is required by Section 2.1 of the IFB), the printer's speed is less than 30 pages per minute. See Exhibit 17. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

RESPONSE: The Commonwealth does not agree that the printer is required to meet the print speed requirement "at its best quality mode". NLQ is acceptable. Response to vendor questions on April 25, 2001 indicated, in regards to laser/page printers that 'there is no minimum dpi requirement'.

2. The Government intends to award contracts for printers that do not meet the minimum dpi requirements of the IFB and are therefore nonresponsive and not eligible for award.

a. Under subcategory C.3.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.

Subcategory C.3.a is for workgroup color inkjet printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages 8.5" x 14" in size, print a minimum of 5 pages per minute in black and a minimum of 1 page per minute in color.

In this subcategory, the Government intends to make two awards. The award to Lexmark for the Lexmark 45N does not meet the required minimum dpi of the subsection.

1. Based upon information and belief, the Lexmark 45N does not meet the required 1200 dpi. The manufacturers specifications for the printer indicate the printer's maximum resolution as 600 dpi x 600 dpi. See Exhibit 18.

RESPONSE: The Commonwealth does not agree. Lexmark printer documentation indicated that when printing "1200 x 1200 print quality" mode, the 45N printer prints at 2400 x 600. Both 1200 x 1200 and 2400 x 600 result in 1,440,000 dots per square inch. We feel the print quality is equivalent.

b. Under subcategory E.1.b the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.

Subcategory E.1.b is for desktop mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 3" x 5" up to 11" x 14", print over 8 pages per minute and not over 20 pages per minute in black.

In this subcategory, the Government intends to make three awards. The award to Starprint for the IBM 4912001 does not meet the required minimum dpi of the subsection.

1. Based upon information and belief, the IBM 4912001 does not meet the required 1200 dpi. The manufacturers specifications for this printer indicate "up to 1200 x 1200 dpi print quality." GTSI spoke with an IBM customer service representative regarding this model and the use of the qualifying phrase "print quality." The IBM customer service representative informed GTSI that the printer does not print 1200 dpi, but that the print quality makes it look as if it is 1200 dpi. Therefore, the printer does not meet the required 1200 dpi requirement. See Exhibit 19.

RESPONSE: The Commonwealth does not agree. IBM printer documentation indicated that the 4912-001 prints at 1200 dpi resolution.

c. Under subcategory E.2.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.

Subcategory E.2.a is for workgroup, mono laser printers. The distinct requirements of the subcategory require the printers in this category to print at 1200 dpi, print pages in size from 8.5 x 11" up to 11 x 14", print a minimum of 10 pages per minute and maximum of 20 pages per minute.

In this subcategory, the Government intends to make three awards. The award to Lexmark for the Lexmark M410N, M412N and T610N does not meet the required minimum dpi of the subsection.

1 Based upon information and belief, the Lexmark M410N does not meet the required 1200 dpi. The manufacturers specifications for the printer indicate the printer's maximum resolution as 600 dpi x 600 dpi See Exhibit 20. Each of the three printers offered by Lexmark in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Lexmark is non-responsive, the entire bid by Lexmark for this subcategory is non-responsive.

RESPONSE: The Commonwealth does not agree. Lexmark printer documentation indicated that when printing "1200 x 1200 print quality" mode, the printers prints at 2400 x 600. Both 1200 x 1200 and 2400 x 600 result in 1,440,000 dots per square inch. We feel the print quality is equivalent.

d. Under subcategory H.1.a the Government intends to award a contract for a printer that does not meet the minimum dpi requirement of the subsection.

Subcategory H.1.a is for desktop multifunction color inkjet printers with the capability to print, copy and scan. The distinct requirements of the subcategory require the printers to scan at 9600 dpi.

In this subcategory, the Government intends to make two awards. The award to Logicom for the Xerox 940 does not meet the required minimum scan dpi of the subsection.

1. Based upon information and belief, the Xerox 940 does not meet the required 9600 dpi. The manufacturers specifications for the printer indicate the printer's maximum scan resolution as 600 dpi x 600 dpi See Exhibit 21.

RESPONSE: The Commonwealth agrees.

3. The Government intends to award contracts for printers that are not the type required by their respective subcategory and are therefore nonresponsive and not eligible for award.

a. Under subcategory E.1.a the Government intends to award a contract for a printer that is not a laser printer.

Subcategory E.1.a is for desktop mono laser printers. In this subcategory, the Government intends to make three awards. The award to DISYS for the Okidata 8Z does not meet the requirement that the printer be laser printer.

1. Based upon information and belief, the Okidata 8Z is not a laser printer. GTSI spoke with an Okidata customer service representative regarding this model. The Okidata customer service representative stated the model is not a laser printer, but uses a light emitting diode in printing. See Exhibit 10.

RESPONSE: Category E is for "Laser/Page – Mono" printers. The title is clear that "Page" as well as "Laser" printers are acceptable. The Okidata 8Z is classified as a "Page" printer and is therefore acceptable.

b. Under subcategory H.2.b the Government intends to award a contract for a printer that does not possess all of the multifunctional capabilities required by the subcategory.

Subcategory H.2.b is for multifunctional workgroup printers that can print, copy and scan. In this subcategory, the Government intends to make three awards. The award to Oce USA, Inc. for the Oce 6485 does not meet the requirement that the printer possess copying and scanning capabilities.

1. Based upon information and belief, the Oce 6485 does not possess the ability to copy or scan. See Exhibit 22.

RESPONSE: The Commonwealth agrees.

C. Under subcategory I.1.a the Government intends to award a contract for a printer that does not possess the color printing capability required by the subcategory.

Subcategory I.1.a is for 24" workgroup plotters/large format color inkjet printers. In this subcategory, the Government intends to make one award to DISYS for the Hewlett Packard ("HP") 430. The HP 430 does not meet the color requirement of the subsection.

1. Based upon information and belief, the HP 430 does not possess the ability to print in color. As indicated in HP's specifications, the printer is a black-only printer. See Exhibit 23. HP does make a 24" large format printer; it is the model GTSI bid - the HP 500. See Exhibit 24.

RESPONSE: The Commonwealth's research shows that the HP430 has a color option. Our information shows that the proposing vendor included this option in their proposed configuration, thus meeting the color requirement.

d. Under subcategory I.1.b the Government intends to award a contract for a printer that does not possess the color printing capability required by the subcategory.

Subcategory I.1.b is for 36" workgroup plotters/large format color inkjet printers. In this subcategory, the Government intends to make one award to DISYS for the Hewlett Packard ("HP") 430. The HP 430 does not meet the color requirement of the subsection.

1. Based upon information and belief, the HP 430 does not possess the ability to print in color. As indicated in HP's specifications, the printer does not print color. See Exhibit 25.

RESPONSE: The Commonwealth's research shows that the HP430 has a color option. Our information shows that the proposing vendor included this option in their proposed configuration, thus meeting the color requirement.

4. The Government intends to award contracts for printers that do not meet the minimum or maximum size specifications for labels or paper and are therefore non-responsive and not eligible for award.

a. Under subcategory D.2 the Government intends to award a contract for a printer that exceeds the maximum size specification for labels under the subsection.

Subcategory D.2 is for desktop label printers. The distinct requirement of the subcategory sets a not to exceed label size of 2.25".

In this subcategory, the Government intends to make two awards. The award to Starprint for the IBM 4400-004, 4400-006 and 4400-008 does not meet the required maximum label size of the subsection.

1. Based upon information and belief, the IBM 4400-004, 4400-006 and 4400-008 does not meet the not to exceed label size of 2.25". The manufacturers specifications for the printer indicate the printer's maximum label size is 8". See Exhibit 26.

RESPONSE: The stated requirement for this item was 'up to 2.25" high labels'. The aforementioned printers, according to Exhibit 26, exceeds the requirement.

a. Under subcategory E.1.b the Government intends to award a contract for a printer that does not meet the minimum size specification for paper under the subsection.

Subcategory E.1.b is for desktop laser printers. The distinct requirement of the subcategory sets a minimum page size of 3" x 5".

In this subcategory, the Government intends to make three awards. The award to Logicom for the Xerox/Tektronix P1210 does not meet the required maximum paper size of the subsection.

1. Based upon information and belief, the Xerox/Tektronix P1210 does not meet the minimum paper size of 3" x 5". The manufacturers specifications for the printer indicate the printer's minimum paper size is 3.1 x 5.8". See Exhibit 13.

RESPONSE: The Commonwealth's agrees.

5. The Government intends to award contracts for printers that were discontinued by the manufacturer prior to the bid submission date and are therefore non-responsive and not eligible for award.

a. Under subcategory E.1.b the Government intends to award a contract to Starprint for the IBM 4912-001 printer. Based upon information and belief, the IBM 4912-001 printer was discontinued in late April 2001. GTSI spoke with an IBM customer service representative regarding this model. The IBM customer service representative indicated that the model was discontinued in late April 2001.

RESPONSE: There is no prohibition against bidding discontinued products in this particular solicitation. Barring a prohibition, the printer is acceptable, but subject to the procedure to replace discontinued products. GTSI's protest on this item is denied.

b. Under E.2.c the Government intends to award a contract to DISYS for the HP LJ 8100 printer. Based upon information and belief, the HP LJ 8100 printer was discontinued in April 2001. GTSI spoke with an HP representative regarding this model. The HP representative indicated that the model was discontinued in April 2001.

RESPONSE: There is no prohibition against bidding discontinued products. In this particular case, it appears the reference to a HP LJ 8100 is typographical. All other references by the vendor for this line item refer to a HP LJ 8150, which is the replacement for the Model 8100.

GTSI's protest of this item is denied.

B. The Government intends to award contracts in the same subcategory for printers that are part of the same brand family.

The IFB requires that within a subcategory, each award be a separate and distinct brand family. This requirement is intended to provide the Government with the broadest possible choice of printer brands. Unfortunately, due to the re-branding of printers, some of the awards by the Government are in violation of the IFB terms and will actually limit the Government's printer choices.

Moreover, it is clear from the awards to DISYS and Lexmark in subcategory C.2.a, the issue

is not awarding more than one contract to a single company in the same category. In subcategory C.2.a, DISYS received two awards, one for a Canon printer and the other for an Epson printer. This was allowed because they are two separate models of printers. However, where the printers are the same (same model of printer, but merely re-branded) awards are not allowed under the IFB for both printers, even if offered by two different companies.

1. Under subcategory E.2.b the Government intends to award contracts to Alliance Micro for the Xerox N2125N, as well as an award to Peripheral Company, Inc. for the Genicom ML210N, LN21N, ML280N and LN28N. Based upon information and belief, the Genicom ML210N is manufactured by Xerox and is the same model and has the same features as the Xerox N2125N. As such, the award to Peripheral Company, Inc. violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award. See Exhibit 27. Each of the printers offered by Peripheral Company, Inc. in this subcategory are part of a single, non-divisible bid. Because at least one of the printers offered by Peripheral Company, Inc. is non-responsive, the entire bid by Peripheral Company, Inc. for this subcategory is non-responsive.

2. Under subcategory E.2.a the Government intends to award contracts to Lexmark for the Lexmark M410N, M412N and T610N, as well as an award to Unisys for the Unisys UDS I 5N-N 11. Based upon information and belief, the Unisys UDS15N-N11 is manufactured by Lexmark and is the same model and has the same features as the printers bid by Lexmark for this subcategory. As such, the award to Unisys violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award.

3. Under subcategory E.2.c the Government intends to award contracts to Unisys for the UDS35-N11 and UDS35-WDN, as well as Lexmark for the Lexmark T616N, W810N and W810DN. Based upon information and belief, the Unisys UDS35-N11 and UDS35-WDN are manufactured by Lexmark and are the same models and have the same features as the printers bid by Lexmark for this subcategory. As such, the award to Lexmark violates the restriction on awarding to the same printer family within a subcategory and is not eligible for award.

RESPONSE: The Commonwealth's clearly stated on page 4 of the solicitation document that:

*"It is intended that the individual awards per printer category shall be separate and distinct **brand** families" (emphasis added)*

The fact that two printers, in the same category, were manufactured by the same company does not place them in the same "Brand". Xerox and Genicom are regarded as different "brands" as are Lexmark and Unisys. Re-branding is common in all parts of the electronics industry and while we would agree that were the Commonwealth to agree with your position, more options would be made available to its users, to accept this position would be contrary to the requirements of the solicitation. GTSI's protest of this item is hereby denied..

C. The Government's intended award to DISYS under subcategory E.1.b for the HP LJ1200 is arbitrary and capricious.

The goal of the Virginia legislature in enacting the Virginia Public Procurement Act, which is codified in the Code of Virginia, was to ensure that the "Commonwealth obtain quality goods and services at a reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree . . ." BIT Processing, Inc. v. The Information Technology Procurement Appeals Board, 1994 WL 1031217 (Va. Cir. Ct., 1994); San Jose Construction Group, Inc. v. Loudoun County School Board, 1998 WL 957328 (Va. Cir. Ct., 1998). Black's Law Dictionary defines "arbitrary and capricious" as characterized as a decision or action . . . without consideration or in disregard of facts or law or without determining principle." Black's Law Dictionary 105 (6th ed. 1991).

Under subcategory E.1.b., the Government intends to award a contract to DISYS for the HP LJ1200 printer. GTSI also bid the HP LJ1200 under E.1.b. The purchase price for the HP LJ1200 bid by DISYS is \$371. GTSI bid the same printer at the lower price of \$353 or \$18 less than DISYS. DISYS submitted an average cost per page of \$0.02. For the same printer, GTSI submitted an average cost per page of \$0.0356. Because of the difference in the average cost per page between GTSI and DISYS, DISYS' evaluated price is \$471 and GTSI's evaluated price is \$531; a difference of \$62. However, because the printers offered are the same exact printer, the HP LJ1200, the average cost per page will be the same no matter who supplies the printer.

In this case, since the same printers were bid with different cost per page pricing and that pricing was the determining factor in the award, to avoid an arbitrary and capricious decision the Government had an affirmative duty to inquire as to the difference in the average cost per page submitted by GTSI and DISYS. As noted in the letter from HP See Exhibit 28. HP worked exclusively with GTSI in connection with this IFB. The average cost per page bid by GTSI is the exact number provided to GTSI by HP, the manufacturer of the HP LJ1200. Given that GTSI's cost per page is directly from the manufacturer, the cost submitted by DISYS must be incorrect and the award should be made to GTSI.

RESPONSE: The Commonwealth's rejects GTSI's argument that the same printers from different companies must have the same per/page cost. Cost per page will vary based on the cost of supplies. GTSI is disputing the per page cost of \$0.02 submitted by DISYS.

Section 2.2.2 of the solicitation states that:

"Evaluated Cost (EC) for each printer offered will be determined by adding the cost of 5000 pages of supplies (assume 5% coverage per page for laser...."

*Vendors were asked to submit **their** per page cost. DIT accepted the \$0.02 per/page cost submitted by DISYS and the \$0.0356 per page submitted by GTSI.*

Hewlett Packard states the yield for the C7115A Toner Cartridge (both vendors indicate

this cartridge is utilized) is 2500 pages (8.5 x 11) at 5% coverage. Two (2) cartridges will yield exactly 5000 pages. DISYS's proposed bid price for each cartridge is \$49.00 (\$98 for two). Division of \$98 by 5000 pages gives a per page price of \$0.0196 per page which reasonably can be rounded to \$0.02.

The fact that GTSI received its per page cost from Hewlett Packard (the manufacturer) and the fact that Hewlett Packard collaborated with GTSI to submit a bid has no bearing on this issue. It provides no insight into the calculation itself nor any evidence of correctness of the number provided..

Being the cost provided by DISYS can be arrived at by a simple calculation, that appears to be a legitimate method of deriving the "per page cost", the Commonwealth denies that it was either arbitrary or capricious in its decision to select DISYS to provide this printer..